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IN THE UNITED STATES DISTRICT COURT

DEPUTY CLERK

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	No. CR-07-19-GF-SEH
)	CV-10-41-GF-SEH
Plaintiff/Respondent,)	
)	
vs.)	ORDER
)	
LEWIS LYNN MITCHELL,)	
)	
Defendant/Movant.)	

On June 30, 2010, Defendant/Movant Lewis Mitchell (Mitchell) moved to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. Mitchell is a federal prisoner proceeding pro se.

On July 7, 2010, Mitchell was ordered to show cause why his motion should not be dismissed with prejudice as untimely. He was also given an opportunity to file an amended motion because his original motion failed to allege any facts that, if true, would warrant relief. Order of July 7, 2010 (Doc. 49), at 1-2.

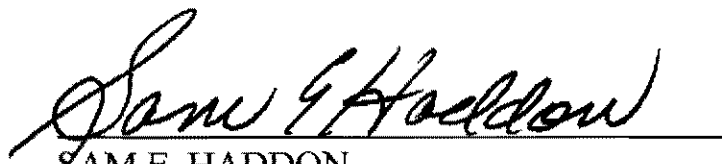
Mitchell responded on July 26, 2010. He failed to address the statute of limitations issue, and he failed to allege any facts that, if true, would warrant relief.

A certificate of appealability is not warranted because Mitchell has not alleged any grounds for relief, much less made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Further, his motion is nearly six months too late.

ORDERED:

1. Mitchell's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 (Doc. 46) is DENIED.
2. A certificate of appealability is DENIED. The Clerk of Court shall immediately process the appeal if Mitchell files a Notice of Appeal.
3. The Clerk of Court shall ensure that all pending motions in this case and in CV-10-41-GF-SEH are terminated and shall close the civil file by entering judgment in favor of the United States and against Mitchell.

DATED this 2nd day of August, 2010.


SAM E. HADDON
United States District Judge